IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS JONESBORO DIVISION

CIVIL ACTION NO:
3:04 CV 00291 SWW
JURY DEMAND

PLAINTIFFS' EVIDENTIARY SUBMISSION IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs submit the following evidentiary submission in opposition to summary judgment and incorporate herewith their class certification exhibits ##1-39, as well as Appendix A through C from plaintiffs' class certification reply brief (Dkt. 89) and plaintiffs adopt pages 16-25 (section five) from their reply brief which are already part of the record.

- 40. Rodney Washington Second Declaration
- 41. Larry McBride Second Declaration
- 42. Sylvester Rogers Second Declaration
- 43. Ozzie Green Second Declaration
- 44. Clifton Lee Second Declaration
- 45. Cornelius Bennett Second Declaration
- 46. Danny Lee Second Declaration
- 47. Records of Tim Alexander
- 48. Records of Charles Ray Ault
- 49. Records of Jerry Barkley
- 50. Records of Eddy Barger
- 51. Records of Hughie Bond
- 52. Records of Steve Brannen
- 53. Records of Bruce Brown

- 54. Records of Charles Brooks
- 55. Records of Rudi Cagle
- 56. Records of Ronnie Cato
- 57. Records of Jeff Daley
- 58. Records of Robert Despain
- Records of Robin Dillon
- 60. No Exhibit
- 61. Records of Jerry Foley
- 62. Records of Jeff Gallagher
- 63. Records of Jim Gilmer
- 64. Records of William Hennenfent
- 65. Records of Delbert Hooker
- 66. Records of James Hymas (see also exhibit #86)
- 67. Records of Norman Jenkins
- 68. Records of Gary Keiter
- 69. Records of Bruce Luttrell
- 70. Records of Jonathan Marshall
- 71. Records of Greg Moss
- 72. Records of Zach Moon
- 73. Records of Trang Nguyen
- 74. Records of Shawn O'Neal
- 75. Records of Allen Rice
- 76. Records of Brett Richardson
- 77. No Exhibit
- 78. Records of Tim Rudick
- 79. Records of Jason Simmons
- 80. Records of Michael Smith
- 81. Records of Gary Steward
- 82. Records of Jeffrey Stobaugh
- 83. Records of Adam Thomas
- 84. Records of Mark Warren
- 85. Records of Kelly Wilson
- 86. Discipline records of James Hymas
- 87. Discipline records of Earl Draughn
- 88. Discipline records of Roger Jefferson
- 89. Discipline records of Tracy Kelly
- 90. Discipline records of Scott Lindsey
- 91. Discipline records of Erick Rouse
- 92. Discipline records of Robert Sharp
- 93. Discipline records of William Vasser
- 94. Discipline records of Lester Mann

- 95. Discipline records of Brett Richardson
- 96. Discipline records of James Brandenburg
- 97. Discipline records of Matthew Estes
- 98. Discipline records of Robert Rayburn
- 99. Discipline Records of Gary Steward
- 100. Discipline records of Jerry Foley
- 101. Discipline records of Rudi Cagle
- 102. Discipline records of Bruce Luttrell
- 103. Discipline records of Johnnie Hawkins
- 104. Discipline records of Don-Andre Blansett
- 105. Discipline records of Brian "Chris" Brizendine
- 106. Discipline records of Larry Perrin
- 107. Discipline Records of Joseph Allen Wood
- 108. Discipline Records of Frederick Linder
- 109. Discipline Records of Brian Stahl
- 110. Discipline Records of Wencel Beggs
- 111. No Exhibit
- 112. Discipline Records of Rudi Cagle
- 113. Discipline Records of Bruce Luttrell
- 114. Discipline Records of Howard Kelly
- 115. Discipline Records of Mikle Crawford
- 116. Discipline Records of Johnnie Hawkins
- 117. Discipline Records of Paul Williamson
- 118. Discipline Records of Glenn French
- 119. No Exhibit
- 120. No Exhibit
- 121. No Exhibit
- 122. Change of Status Forms of Todd McKellup
- Change of Status Forms of Charles Ray Ault
- 124. Change of Status Forms of Phillip White
- 125. Change of Status Forms of Denny Elliott
- 126. No Exhibit
- 127. Change of Status Forms of Cameron Strawn
- 128. Change of Status Forms of Gary Steward
- 129. Change of Status Forms of Charles Banks
- 130. Change of Status Forms of Chris Gee
- 131. Change of Status Forms of Kevin Austin
- 132. Change of Status Forms of Keith Neal
- 133. Change of Status Forms of Darren Hawkins
- 134. Change of Status Forms of Paul Towery
- 135. Change of Status Forms of William Vasser

- 136. Change of Status Forms of Cameron Strawn
- 137. Change of Status Forms of Wade Hunt
- 138. Change of Status Forms of Mitch Craig
- 139. Change of Status Forms of Tracy Kelly
- 140. Change of Status Forms of James Morris
- 141. Change of Status Forms of James Hymas
- 142. Change of Status Forms of Steve Edgar
- 143. Change of Status Forms of Alan Buchanan
- 144. Change of Status Forms of Ricky Brothers
- 145. Change of Status Forms of Erick Rouse
- 146. No Exhibit
- 147. Change of Status Forms of Lester Mann
- 148. No Exhibit
- 149. Change of Status Forms of Stephen Murphy
- 150. Change of Status Forms of Mark Hawkins
- 151. Change of Status Forms of Charles Banks
- 152. Change of Status Forms of Rickey Brothers
- 153. Change of Status Forms of Stephen Murphy
- 154. Change of Status Forms of Chris Gee
- 155. Change of Status Forms of Mike Gentry
- 156. Change of Status Forms of Jeffrey Stobaugh
- 157. Change of Status Forms of J. C. Carter
- 158. Change of Status Forms of Scotty Smothers
- 159. Change of Status Forms of Roger Jefferson
- 160. Change of Status Forms of Stephen Murphy
- 161. Change of Status Forms of Roger Jefferson
- 162. Nucor's EEO-1 Reports of the Racial Distribution of Employees at the Blytheville Plant
- List of Nucor's Crew and Crew Members in Roll Mill Department by Name, Race, Job and Crew
- 164. List of Employees Given Training for Mill Area Jobs
- 165. EEOC Charge of Sheldon Singletary's Charge in February 2002
- 166. EEOC Charge of Ramon Roane's Charge in March 2002.
- 167. Written request to continue the investigation of such EEOC Charges dated October 4, 2002 listing employees from the Blytheville plant, such as Clifton Lee, Larry McBride, Ozzie Green and Sylvester Rogers, as part of such Charges and scope of the investigation.
- 168. October 24, 2002 EEOC formal notice of intent to continue the investigation of EEOC Charges in light of October 4, 2002 request such allegation and request
- 169. Nucor's standard application form for promotions, known as a "Job Bib Form", showing questions asks only for written disciplines "in the past 12 months"
- 170. Nucor's "Notice of Warning" form showing has three standard forms of progressive discipline listed on it: "verbal warning", "written warning" and "suspension"

- 171. "Notice of Counseling" forms showing non-disciplinary positive evaluations, commendations, congratulations and/or non-disciplinary constructive criticism or counseling
- 172. Nucor policy on promoting from within before hiring non-employee applicants (¶1 and ¶12 of Nucor Hiring, Promotion and Transfer Policy)
- 173. Discipline records of Bruce Brown
- 174. Clifton Lee's EEOC charge April 8, 2003
- 175. Clifton Lee's Right-to-Sue Letter April 28, 2004.
- 176. Clifton Lee's Change in Status form transferring him to NYS
- 177. Cornelius Bennett's EEOC charge May 13, 2003.
- 178. Cornelius Bennett's Right-to-Sue letter September 8, 2003.
- 179. No Exhibit
- 180. Extracts from Clifton Lee's Deposition
- 181. Extracts from Cornelius Bennett's Deposition
- 182. Disciplinary records of Steve Brannen
- 183. Glenn Ellis' deposition extracts
- 184. Don Burns' deposition extracts
- 185. Mike Dugan's deposition extracts
- 186. Disciplinary records of Ted Gibson
- 187. Jonathan Marshall disciplinary records
- 188. List of persons promoted with discipline in prior 12 months
- 189. Wood's and Walker's discipline for fighting
- 190. Dr. Bradley's Supplemental Report
- Declaration of Sylvester Rogers in Rogers vs. Nucor, et al., Eastern District of Arkansas, 05-0933 (GH)
- 192. Court Order regarding summary judgment in Rogers vs. Nucor, et al., Eastern District of Arkansas, 05-0933 (GH)
- 193. Plaintiffs' deposition extracts
- 194. Danny Lee's e-mails and pictures
- 195. Charles Ault's additional records
- 196. Bob Cash's records
- 197. Todd Gibson's records
- 198. Blaine Duncan's records
- 199. Vernon J. Schremmer's records
- 200. Michael R. Thomas' records

Respectfully submitted this 31st day of October, 2006.

/s/Robert L. Wiggins, Jr.
Robert L. Wiggins, Jr., ABS-1754-G-63R
Ann K. Wiggins, ABS-7006-I-61A
Benjamin J. De Gweck, ABS-8943-B-46-D
Susan Donahue ASB-4525-A-48-D
Wiggins, Childs, Quinn & Pantazis, LLC
The Kress Building
301 19th Street North
Birmingham, Alabama 35203
205/314-0500
205-254-1500 (Facsimile)

Philip E. Kaplan, AR Bar No. 68026 Kaplan, Brewer, Maxey & Haralson, P.A. 415 Main Street Little Rock, Arkansas 72201 (501) 372-0400 (501) 376-3612 (facsimile)

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Richard D. Alaniz
Cary A. Farris
Terry E. Schraeder
Micah Heilbrun
ALANIZ & SCHRAEDER, LLP
2500 City West Blvd., Suite 1000
Houston, Texas 77042

D. P. Marshall, Jr. BARRETT & DEACON P. O. Box 1700 Jonesboro, AR 72403

/s/Robert L. Wiggins, Jr. Of Counsel

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS JONESBORO DIVISION

CORNELIUS BENNETT, et al.,)	
Plaintiff,)	
)	
)	
v.)	CIVIL ACTION NO:
)	3:04 CV 00291 SWW
)	JURY DEMAND
NUCOR CORPORATION, et al.,)	
)	
)	
Defendant.)	

PLAINTIFFS' EVIDENTIARY SUBMISSION IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs submit the following evidentiary submission in opposition to summary judgment and incorporate herewith their class certification exhibits ##1-39, as well as Appendix A through C from plaintiffs' class certification reply brief (Dkt. 89) and plaintiffs adopt pages 16-25 (section five) from their reply brief which are already part of the record.

- 40. Rodney Washington Second Declaration
- 41. Larry McBride Second Declaration
- 42. Sylvester Rogers Second Declaration
- 43. Ozzie Green Second Declaration
- 44. Clifton Lee Second Declaration
- 45. Cornelius Bennett Second Declaration
- 46. Danny Lee Second Declaration
- 47. Records of Tim Alexander
- 48. Records of Charles Ray Ault
- 49. Records of Jerry Barkley
- 50. Records of Eddy Barger
- 51. Records of Hughie Bond
- 52. Records of Steve Brannen
- 53. Records of Bruce Brown

- 54. Records of Charles Brooks
- 55. Records of Rudi Cagle
- 56. Records of Ronnie Cato
- Records of Jeff Daley
- 58. Records of Robert Despain
- Records of Robin Dillon
- 60. No Exhibit
- Records of Jerry Foley
- 62. Records of Jeff Gallagher
- 63. Records of Jim Gilmer
- 64. Records of William Hennenfent
- 65. Records of Delbert Hooker
- 66. Records of James Hymas (see also exhibit #86)
- 67. Records of Norman Jenkins
- 68. Records of Gary Keiter
- 69. Records of Bruce Luttrell
- 70. Records of Jonathan Marshall
- 71. Records of Greg Moss
- 72. Records of Zach Moon
- 73. Records of Trang Nguyen
- 74. Records of Shawn O'Neal
- 75. Records of Allen Rice
- 76. Records of Brett Richardson
- 77. No Exhibit
- 78. Records of Tim Rudick
- 79. Records of Jason Simmons
- 80. Records of Michael Smith
- 81. Records of Gary Steward
- 82. Records of Jeffrey Stobaugh
- 83. Records of Adam Thomas
- 84. Records of Mark Warren
- 85. Records of Kelly Wilson
- 86. Discipline records of James Hymas
- 87. Discipline records of Earl Draughn
- 88. Discipline records of Roger Jefferson
- 89. Discipline records of Tracy Kelly
- 90. Discipline records of Scott Lindsey
- 91. Discipline records of Erick Rouse
- 92. Discipline records of Robert Sharp
- 93. Discipline records of William Vasser
- Discipline records of Lester Mann

- 95. Discipline records of Brett Richardson
- 96. Discipline records of James Brandenburg
- 97. Discipline records of Matthew Estes
- Discipline records of Robert Rayburn
- 99. Discipline Records of Gary Steward
- 100. Discipline records of Jerry Foley
- 101. Discipline records of Rudi Cagle
- 102. Discipline records of Bruce Luttrell
- 103. Discipline records of Johnnie Hawkins
- 104. Discipline records of Don-Andre Blansett
- 105. Discipline records of Brian "Chris" Brizendine
- 106. Discipline records of Larry Perrin
- 107. Discipline Records of Joseph Allen Wood
- 108. Discipline Records of Frederick Linder
- 109. Discipline Records of Brian Stahl
- 110. Discipline Records of Wencel Beggs
- 111. No Exhibit
- 112. Discipline Records of Rudi Cagle
- 113. Discipline Records of Bruce Luttrell
- 114. Discipline Records of Howard Kelly
- 115. Discipline Records of Mikle Crawford
- 116. Discipline Records of Johnnie Hawkins
- 117. Discipline Records of Paul Williamson
- 118. Discipline Records of Glenn French
- 119. No Exhibit
- 120. No Exhibit
- 121. No Exhibit
- 122. Change of Status Forms of Todd McKellup
- 123. Change of Status Forms of Charles Ray Ault
- 124. Change of Status Forms of Phillip White
- 125. Change of Status Forms of Denny Elliott
- 126. No Exhibit
- 127. Change of Status Forms of Cameron Strawn
- 128. Change of Status Forms of Gary Steward
- 129. Change of Status Forms of Charles Banks
- 130. Change of Status Forms of Chris Gee
- 131. Change of Status Forms of Kevin Austin
- 132. Change of Status Forms of Keith Neal
- 133. Change of Status Forms of Darren Hawkins
- 134. Change of Status Forms of Paul Towery
- 135. Change of Status Forms of William Vasser

- 136. Change of Status Forms of Cameron Strawn
- 137. Change of Status Forms of Wade Hunt
- 138. Change of Status Forms of Mitch Craig
- 139. Change of Status Forms of Tracy Kelly
- 140. Change of Status Forms of James Morris
- 141. Change of Status Forms of James Hymas
- 142. Change of Status Forms of Steve Edgar
- 143. Change of Status Forms of Alan Buchanan
- 144. Change of Status Forms of Ricky Brothers
- 145. Change of Status Forms of Erick Rouse
- 146. No Exhibit
- 147. Change of Status Forms of Lester Mann
- 148. No Exhibit
- 149. Change of Status Forms of Stephen Murphy
- 150. Change of Status Forms of Mark Hawkins
- 151. Change of Status Forms of Charles Banks
- 152. Change of Status Forms of Rickey Brothers
- 153. Change of Status Forms of Stephen Murphy
- 154. Change of Status Forms of Chris Gee
- 155. Change of Status Forms of Mike Gentry
- 156. Change of Status Forms of Jeffrey Stobaugh
- 157. Change of Status Forms of J. C. Carter
- 158. Change of Status Forms of Scotty Smothers
- 159. Change of Status Forms of Roger Jefferson
- 160. Change of Status Forms of Stephen Murphy
- 161. Change of Status Forms of Roger Jefferson
- 162. Nucor's EEO-1 Reports of the Racial Distribution of Employees at the Blytheville Plant
- 163. List of Nucor's Crew and Crew Members in Roll Mill Department by Name, Race, Job and Crew
- 164. List of Employees Given Training for Mill Area Jobs
- 165. EEOC Charge of Sheldon Singletary's Charge in February 2002
- 166. EEOC Charge of Ramon Roane's Charge in March 2002.
- 167. Written request to continue the investigation of such EEOC Charges dated October 4, 2002 listing employees from the Blytheville plant, such as Clifton Lee, Larry McBride, Ozzie Green and Sylvester Rogers, as part of such Charges and scope of the investigation.
- October 24, 2002 EEOC formal notice of intent to continue the investigation of EEOC Charges in light of October 4, 2002 request such allegation and request
- 169. Nucor's standard application form for promotions, known as a "Job Bib Form", showing questions asks only for written disciplines "in the past 12 months"
- 170. Nucor's "Notice of Warning" form showing has three standard forms of progressive discipline listed on it: "verbal warning", "written warning" and "suspension"

- 171. "Notice of Counseling" forms showing non-disciplinary positive evaluations, commendations, congratulations and/or non-disciplinary constructive criticism or counseling
- 172. Nucor policy on promoting from within before hiring non-employee applicants (¶1 and ¶12 of Nucor Hiring, Promotion and Transfer Policy)
- 173. Discipline records of Bruce Brown
- 174. Clifton Lee's EEOC charge April 8, 2003
- 175. Clifton Lee's Right-to-Sue Letter April 28, 2004.
- 176. Clifton Lee's Change in Status form transferring him to NYS
- 177. Cornelius Bennett's EEOC charge May 13, 2003.
- 178. Cornelius Bennett's Right-to-Sue letter September 8, 2003.
- 179. No Exhibit
- 180. Extracts from Clifton Lee's Deposition
- 181. Extracts from Cornelius Bennett's Deposition
- 182. Disciplinary records of Steve Brannen
- 183. Glenn Ellis' deposition extracts
- 184. Don Burns' deposition extracts
- 185. Mike Dugan's deposition extracts
- 186. Disciplinary records of Ted Gibson
- 187. Jonathan Marshall disciplinary records
- 188. List of persons promoted with discipline in prior 12 months
- 189. Wood's and Walker's discipline for fighting
- 190. Dr. Bradley's Supplemental Report
- Declaration of Sylvester Rogers in Rogers vs. Nucor, et al., Eastern District of Arkansas, 05-0933 (GH)
- 192. Court Order regarding summary judgment in *Rogers vs. Nucor*, et al., Eastern District of Arkansas, 05-0933 (GH)
- 193. Plaintiffs' deposition extracts
- 194. Danny Lee's e-mails and pictures
- 195. Charles Ault's additional records
- 196. Bob Cash's records
- 197. Todd Gibson's records
- 198. Blaine Duncan's records
- 199. Vernon J. Schremmer's records
- 200. Michael R. Thomas' records

Respectfully submitted this 31st day of October, 2006.

/s/Robert L. Wiggins, Jr.
Robert L. Wiggins, Jr., ABS-1754-G-63R
Ann K. Wiggins, ABS-7006-I-61A
Benjamin J. De Gweck, ABS-8943-B-46-D
Susan Donahue ASB-4525-A-48-D
Wiggins, Childs, Quinn & Pantazis, LLC
The Kress Building
301 19th Street North
Birmingham, Alabama 35203
205/314-0500
205-254-1500 (Facsimile)

Philip E. Kaplan, AR Bar No. 68026 Kaplan, Brewer, Maxey & Haralson, P.A. 415 Main Street Little Rock, Arkansas 72201 (501) 372-0400 (501) 376-3612 (facsimile)

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Richard D. Alaniz
Cary A. Farris
Terry E. Schraeder
Micah Heilbrun
ALANIZ & SCHRAEDER, LLP
2500 City West Blvd., Suite 1000
Houston, Texas 77042

D. P. Marshall, Jr.
BARRETT & DEACON
P. O. Box 1700
Jonesboro, AR 72403

/s/Robert L. Wiggins, Jr. Of Counsel